

Honorable Robert S. Lasnik



JUN 08 2020

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Gene Alfred Palmer II)
)
Plaintiff,) NO. 219 CV 01777 RSL
)
v.) AMENDED
) COMPLAINT FOR DAMAGES AND
) DEMAND FOR JURY
King County, a municipal)
corporation; King County)
Prosecutor's Office, a)
subdivision of King County,)
a municipal corporation;)
Seattle Police Department, a)
subdivision of City of Seattle)
a municipal corporation;)
Jenny Durkan and Jane Doe)
Durkan her wife, individually)
and as former U.S. Attorney;)
US Attorney's Office;)
SPD Officer Colleen Raftis and)
Husband John Doe Raftis;)
and John and Jane Does 1)
through 50 inclusive,)
Defendants.)

COMES NOW the plaintiff, Gene Alfred Palmer II, Pro Se and for cause of action against
defendants states as follows:

JURISDICTION AND VENUE

1. Plaintiff is a resident of Washington State.
AMENDED COMPLAINT - 1

4. The court has proper jurisdiction over the defendants and is the proper venue herein due to the residence of the defendants and the place of acts or omissions alleged.

FACTS

6. On or about May 28, 2010, plaintiff was involved in an accident in Seattle, Washington. He and at least one other witness called 911 and reported the accident and his injury and assault by Andy Lee. On 6/5/10 plaintiff gave authority to the Seattle Police Department to collect the 911 recordings and they did so. Supposedly, the records for the 911 calls were destroyed by the 911 system and are no longer available through them. Seattle Police Department personnel say that they provided it to the King County Prosecutor's Office.

1 Said Office declined to bring a criminal case and wrote a declining memo indicating that they
2 had received the 911 records. They supposedly transferred the file to the Seattle City
3 Attorney's Office, which supposedly does not have them. Additionally, the Seattle Police
4 Department received a file from State Farm Insurance Company regarding Andy Lee's
5 purchasing of insurance through them for the subject of 5/28/10 loss and supposedly the Seattle
6 Police Department transmitted this file to the King County Prosecutor's Office. Plaintiff and
7 his attorney repeatedly (e.g. 9/3/13 and 11/21/14) requested full and complete copies of the
8 King County Prosecutor's Office file regarding the 5/28/10 incident involving Andy Lee and
9 plaintiff and related materials, including the 911 records and the Andy Lee State Farm file and
10 neither documents were ever produced. This in violation of the Public Records Act RCW
11 42.56. et seq.
12

13
14 7. A free democracy requires government disclosure of records. Lady justice may
15 be blind-folded, but even she needs to read government records to do justice.
16

17 8. Appellant requested records from the government, which the government
18 admitted existed and then did not produce because they said they did not exist anymore. I sued
19 in King County Superior Court and the government won on summary judgment. Other arms of
20 the government found the fraud in destroying and hiding the records by the government and
21 ultimately disclosed this to the appellant after holding that information for some time, but
22 appellant brought a motion to vacate within a reasonable time after he finally discovered it just
23 recently (2-3 months) before he filed his motion. The trial court denied the motion. The
24 Washington Court of Appeals denied the appeal in error thinking that appellant had the
25 information for 16 months when that was actually the government who had that. This was
26
27
28

1 pointed out very clearly in the motion for reconsideration, but it was denied in a word. The
2 Washington State Supreme Court denied the petition for review within this last month.

3 9. In the Washington Court of Appeals 3/4/19 decision at page 7 the court stated
4 that in my "own declaration, Palmer was aware of the purported indictments and fraudulent
5 activity on May 4, 2016.... Here, Palmers 16-month delay in filing his second CR60(b) motion
6 was lengthier than the delay in Lockett. Also, like Lockett, Palmer has no justifiable excuse for
7 the lengthy delay in filing his motion to vacate.... We hold that Palmer's second motion to
8 vacate was not filed within a reasonable time... denying it on CR60(b)(4) and (11) grounds."

9 10. This is factually incorrect. While the second CR60(b) motion was filed 16
10 months after the May 2016 summary judgment, it was indeed filed within a "reasonable time."
11 The court is incorrect in stating that I was aware of purported indictments and fraudulent
12 activity on May 4, 2016. My declaration, dated August 27, 2017, clearly stated that I had only
13 "recently" learned of this from the U.S. Marshalls.

14 11. In five places in my declaration dated 8/27/17 I stated very clearly that I only
15 discovered the new evidence of fraud etc. by defendants "recently" to that date. I only
16 discovered these things that summer and brought the CR60(b) motion that very summer.---
17 within 2 or 3 months of discovery and certainly not 16 months. And this is "reasonable time"
18 for filing:

19 First set of two references to recent time in declaration:

20 12. The grounds for vacating the two summary judgment orders of 5/6/16 herein are
21 based on new developments regarding the defendants' King County attorneys Robin Fox and
22 Samantha Kanner fraud, perjury, obstruction of justice, etc. regarding the public disclosure
23 request of plaintiff, the subject of the suit herein. The plaintiff RECENTLY found out they
24

1 were investigated by the FBI and the Department of the Justice and were RECENTLY indicted
2 by a grand jury in the US District Court for the District of Columbia (Judge Reggie B. Walton
3 overseeing the case) for probable cause conspiracy, making false statements, obstruction of
4 justice, slander, defamation, perjury, and under 18 U.S.C. Title 101 Section 2071 regarding
5 destroying records.
6

7 13. Second set of three references to "recent" time in declaration: and RECENTLY
8 I learned that Samantha Kanner and Robin Fox were RECENTLY indicted by a grand jury in
9 the US District Court for the District of Columbia (Judge Reggie B. Walton RECENTLY
10 assigned the case) for probable cause conspiracy, making false statements, obstruction of
11 justice, slander, defamation, perjury, and under 18 U.S.C. Title 101 Section 2071 regarding
12 destroying records.
13

14 14. The U.S. Marshalls and federal agents never gave me any documents or any of
15 this information in 5/16 or any time until RECENTLY before I filed my 8/27/17 declaration.
16

17 15. My justifiable excuse for the short delay in filing my motion after learning of
18 these facts recently before filing is that the U.S. Marshalls and federal enforcement were doing
19 their investigations and indictments and were not making this information available to me
20 before that. The significance of the information is obvious and defendants should not get away
21 with their fraud.
22

23 16. Pro se litigants pleadings are construed liberally and held to less stringent
24 standards than formal pleadings drafted by lawyers, i.e. courts can reasonably read pleading to
25 state valid claims on what litigants could prevail. It should do so despite failure to cite proper
26 legal authority, confusion of legal theories, poor syntax and construction, or litigants unfamiliar
27 with pleading requirements. Freeman v. Dept of Corrections 949 F2d 360 10th Circuit (1991);
28

US v. Detrichs 940 F2d 37 2nd Circuit; Boag v. Maedouall 454 US 364 70 Lev 2d 551 102
(5th Cir) 700 (1989); Haines v. Kerner 404 US 579 30 LE 2nd 652925c 9th Circuit (1974).

DEFENDANTS IN CONCERT

17. I allege that Jenny Durkan and the US Attorney's office acted in concert with Seattle Police Department and Seattle Attorney's Office and King County and King County Prosecutor's Office and SPD Officer Raftis to destroy and prevent me from receiving 911 recording and documents requested under public disclosures and acted to undermine or prevent causes of action against these parties and others. This is described more fully below. It is my understanding that then US Attorney Jenny Durkan, (who brought the Federal case United States v. City of Seattle, Case No. 2:12-cv-01282- JLR (W.D. Wash.) regarding SPD use of excessive force and other improper activities and SPD was placed by the Federal Court under supervision and monitoring for the last many years), destroyed numerous 911 recordings and documents and that this lead to her termination. I was covered by this class action suit and was damaged by her actions.

18. Clearly the government cannot destroy 911 recordings of open cases or cases on appeal when the public disclosure request has been put in. For example, see the recent case of ABEGG v. STATE OF WASHINGTON ET AL, Snohomish County 08-2-03753-1, a PDR case, David P. Mooney was the attorney, judge ordered WA to pay \$100,000, they destroyed 911 recordings and withheld emails.

19. On 11/16/07 a Person arsoned my RV in Seattle. The City of Seattle turned the case over the King County Prosecutor's office who prosecuted STATE V. _____, King County Superior Court 07-1083916. Without telling me any of their plans and plea hearings in advance, King County Prosecutor's office got the defendant sentenced to three years instead of

1 10 years for using a bomb and they destroyed the 911 records. We asked for the 911 records
2 for the insurance company and King County Prosecutor's Office told us that the records were
3 destroyed. King County Prosecutor admitted during the later restitution hearing that King
4 County destroyed the recordings. I was told of that hearing and was there. Later I was told that
5 Jennie Durkan's office had actually destroyed the 911 recordings (the case had been sent to the
6 US Attorney's office to consider a bombing charge). This shows a potential conspiracy
7 between US Attorney's office and King County Prosecutor's office regarding the destruction
8 of the 911 recordings.
9

10
11 20. In an 05/2/2011 email from Seattle Chief of Police confirming receipt of the
12 complaint I filed against SPD Officer Colleen Raftis (Unit 623, badge number 5957) for the
13 assault beating of me after she put a parking infraction on my RV which someone had stolen
14 from Marysville and left on a Seattle street. The email goes on to state that the 911 recordings
15 and other records about the are not avail for public disclosure until the case against officer
16 Raftis is closed, but that in the mean time we can refer to this information under number 11-
17 0154, criminal charges against officer Raftis were sent to King County Prosecutor's office for
18 charging on 4/14/11. On 5/2/11 I requested the 911 recordings and records, but King County
19 admitted they destroyed the records and I never got them. Jenny Durkan, the US Attorney, was
20 ladyfriends with officer Raftis and made this destruction happen.
21

22
23 21. I was attacked on 7/22/07 in Seattle and called 911. It became Incident Number
24 07-299932. I put in a public disclosure request for the 911 recording the day after the arrest and
25 the City of Seattle eventually told me that they had destroyed it and gave a lame excuse that the
26 defendant had joined the military and was unavailable so they closed the file and destroyed the
27 recording.
28

CONSTITUTIONAL VIOLATIONS

22. The First Amendment guarantees access to public records. Often Freedom of Information Acts and Public Records Acts are seen as fulfilling broader First Amendment values, by facilitating speech about how the government operates and such information allows exercise of first amendment right to petition the government for a redress of grievances.

23. Civil liberties are protections against government actions. Government, then, cannot interfere in an individual's freedom and liberty. Amendment I gives the individual "liberty" from the actions of the government.

24. There are also many liberties of people not defined in the Constitution, as stated in the Ninth Amendment: The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people. The right to information held by the government is central to democracy and government of the people and I retain that right and given rights under the Washington State Public Disclosure Act.

25. Due process rights under the fifth and fourteenth amendments and equal protection and privileges or immunities of the citizens of the United States thereunder are guaranteed to US Citizens. Here, the government and other defendants violation of my lawful right to the information requested violated all these protections and guarantees and the state courts have ignored my constitutional rights, which the Federal Court should correct here.

DAMAGES

26. As a direct and proximate result of the defendants' acts or omissions, plaintiff has suffered damages and losses, including but not limited to daily penalties for nondisclosure of records of at least the maximum amount allowed under the law, all damages and losses

1 arising out of dealing with the Andy Lee criminal trial, appeal and hearings and the plaintiff's
 2 civil law suit and appeal against Andy Lee, and all other hearings and appeals of the underlying
 3 King County Superior Court suit, court of appeals case, petition to Washington State Supreme
 4 Court, and in this court and all reviews hereof, due to defendants' errors and omissions in not
 5 providing the requested records, including but not limited to, time spent, emotional distress,
 6 incurred fees and costs, and damages from severe physical injuries, emotional pain and
 7 suffering, mental anguish, loss of enjoyment of life, loss of wages, loss of earning capacity,
 8 and cost of health care expenses, past and future, and for the loss of consortium for all possible
 9 persons.
 10
 11

12 PRAYER FOR RELIEF

13 27. WHEREFORE, the plaintiff prays for judgment against defendants, jointly and
 14 severally, and on behalf of their marital community/communities as follows:

- 15 1. For past and future special damages;
- 16 2. For emotional pain and suffering, mental anguish, and loss of enjoyment
 17 of life and reduction of expectancy;
- 18 3. For all possible damages or losses of plaintiff rising out of the 5/28/10
 19 accident, including, but not limited to, past and future partial or permanent
 20 disability, past and future medical, hospital and other health care expenses, lost
 21 wages, partial or permanent impairment of earnings and loss of earning capacity,
 22 property damage, and consequential and other damages of plaintiff.
- 23 4. For all possible damages or losses of plaintiff rising out of the assault by
 24 SPD Officer Raftis and the defendant in my RV arson case, and assault on
 25 7/22/07 in Seattle (wherein I was denied my public disclosure and damaged
 26
 27
 28

1 thereby for a civil suit and an actual criminal suit brought against the
2 defendant),including, but not limited to, past and future partial or permanent
3 disability, past and future medical, hospital and other health care expenses, lost
4 wages, partial or permanent impairment of earnings and loss of earning capacity,
5 property damage, and consequential and other damages of plaintiff.

6
7 5. For all consequential and other damages of plaintiff arising out of
8 defendants' acts and omissions;

9
10 6. For costs, attorney's fees and witness and expert fees under RCW 42.56.
11 et seq., RCW 4.84 et seq., including but not limited to, RCW 4.84.250, the Civil
12 Rules, caselaw and equitable principles; the court should award petitioner
13 attorney's fees and costs under equity, Olympic Steamship case, and the civil
14 rules and civil procedure statutes; and pursuant to 42 USC 1983; 28 USC 1343
15 (1),(3); 28 USC 1367 (a) and US Constitutional Amendments: First, Fifth, Ninth,
16 and Fourteenth.

17
18 7. For pre-judgment interest;

19
20 8. For any other relief the court deems just and equitable, or otherwise
21 warranted by the proof in this case.

22
23 9. For an order granting plaintiff the right to amend his Complaint prior to
24 trial, consistent with the evidence and additional information that might be
25 revealed through discovery.

26 Dated this 15th day of April, 2020.

27 S/ Gene A. Palmer
28 Gene A. Palmer II, Pro Se
Plaintiff

re Palmer
3. Pearl St #103
Kensington, WA
98926

FILED
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WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

Seattle FSDC 981
FRI 05 JUN 2020

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